

HOUSE BILL 3332

By Jackson

AN ACT to enact the Dickson County Adequate Facilities Tax.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the Dickson County Adequate Facilities Tax.

SECTION 2. As used in this act, unless a different meaning appears from the context:

(1) "Board of Zoning Appeals" means the board established in Dickson County pursuant to Tennessee Code Annotated, Section 13-7-106.

(2) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home, but excludes those buildings specified in Section 6 below.

(3) "Building permit" means a permit for development issued in Dickson County, whether by the county or by any city therein.

(4) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure

of public funds, over and above the annual local government operating expense, for the purchase, construction, or replacement of the physical assets of the community are included.

(5) "Certificate of occupancy" means a license for occupancy of a building or structure issued in Dickson County, whether by the county or by any city therein.

(6) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to, or increases the floor area of a residential or non-residential use.

(7) "Dwelling unit" means a room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(8)(A) "Floor area" for non-residential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings, or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building, or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, services, or production areas.

(B) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, or attics which is heated and/or air-conditioned living space, or designed to be finished into heated and/or air-conditioned living space at a future date.

(9) "General plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-302. For the purposes of the act only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.

(10) "Governing body" means the County Commission of Dickson County, Tennessee.

(11) "Major Street or Road Plan" means the plan adopted by the planning commission, pursuant to Tennessee Code Annotated, Sections 13-3-402 and 13-4-302, showing, among other things, the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, excavating, abandonment or change of use of existing public ways.

(12) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(13) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate or other group or combination acting as a unit, and the plural as well as the singular number.

(14) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(15) "Public Building" means a building owned by the state of Tennessee, or any agency thereof, a political subdivision of the state of Tennessee, including, but not

necessarily limited to, counties, cities, school districts and special districts, or the federal government or any agency thereof.

(16) "Public facility or facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities, and other governmental capital improvements benefiting the citizens of the county and/or city.

(17) "Residential" means the development of any property for a dwelling unit or units.

(18) "Subdivision regulations" means the regulations adopted by the Dickson County regional planning commission pursuant to state statutory authorization in October, 1969, as amended, by which the county regulates the subdivision of land.

(19) "Zoning resolution" means the resolution adopted by the governing body pursuant to state statutory authorization on October 27, 1988, as amended; by which the county regulates the zoning, use, and development of property.

SECTION 3. It is the intent and purpose of this act to authorize Dickson County to impose a tax on new development in the county, which requires a building permit, payable at the time of issuance of a building permit or certificate of occupancy, so as to ensure and require that the person responsible for new development shares in the burdens of growth by paying their fair share for the cost of new and expended facilities made necessary by such development.

SECTION 4. Engaging in the act of development within Dickson County, except as provided in Section 6 herein, is declared to be a privilege upon which Dickson County may, by resolution of the governing body, levy a tax as set forth in Section 7.

SECTION 5. The governing body shall impose the tax authorized herein by resolution after adopting a capital improvements program indicating the need for the cost of public facilities anticipated to be funded, in part, by this tax and after finding that the need for such public facilities is reasonably related to new development in the county. The resolution of the governing body imposing this tax shall state the rate of tax on new residential and non-residential development, and shall require a two-thirds (2/3) vote of the county legislative body in favor of the resolution to set the tax rate or to thereafter change the tax rate. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (1) Public buildings.
- (2) Places of worship.
- (3) Barns or outbuildings used for agricultural purposes.
- (4) Replacement structures for previously existing structures destroyed by fire or other disaster.

SECTION 7. For the exercise of the privilege described herein, Dickson County may impose a tax on new development at a rate set by the governing body per gross square feet of new residential and non-residential development.

SECTION 8. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined by a county official duly authorized by the county executive. If the building permit is issued by the county, the county building official or other responsible official shall receive payment in full in cash or other negotiable instrument as specified by resolution of the county and as approved by the county attorney. If the building permit is issued by a city, the city shall before issuance of the building permit, require evidence by a valid certificate executed by the county building inspector that the full amount of the tax due the county has been paid. No building permit for development as herein defined shall be issued

in Dickson County unless the tax has been paid in full to the county or a negotiable instrument approved by the county attorney and payable to the county has been received. The issuance of a building permit by any city official, without a certificate from the county that the tax has been paid, shall render the city liable to the county for the sum or sums that would have been collected by the county, had a certificate of tax been required by the city.

SECTION 9. All tax funds collected shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

SECTION 10. The authority to impose this privilege tax on new development in Dickson County is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 11. (a) Any person aggrieved by the decision of the county building official or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

(1) By payment of the disputed amount to Dickson County and by notifying the official that the payment is made under protest; or

(2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment. Appeals shall be heard by the Dickson County board of zoning appeals. Hearing shall be scheduled within forty-five (45) days of the written request for appeal.

(b) The board of zoning appeals shall render a decision on all hearings within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the board for further information.

(c) The board of zoning appeals shall act as a quasi-judicial body whose purpose is to determine the intent of the act, its applicability to the appellant, and to rule upon the

interpretation of the official. The board will not be bound by formal rules of evidence applicable to the various courts of the state.

(d) Hearings before the board shall proceed as follows:

(1) The building official shall explain his ruling and the reasons for his ruling.

(2) The appellant shall explain his reasons for protesting the ruling.

(3) The board may request further information from any county official, including, but not limited to, the county executive, county commissioners or committee members, the county attorney, or the county planning staff. The board will not have the power of subpoena.

(4) The board will deliberate and render a decision by a majority vote. Decisions will be reduced to writing and copies shall be sent to all parties and shall become a part of the minutes of the board. Decisions of the board of zoning appeals shall be final, except that either the building official, or the person aggrieved may seek review of the board's actions by certiorari and supersedeas to the Chancery Court of Dickson County, Tennessee, provided that an application to the court is made within sixty (60) days of the written decision of the board.

SECTION 12. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Dickson County. This act shall be deemed to create an additional and alternative method for Dickson County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the county.

SECTION 13. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Dickson County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the secretary of state.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 14.